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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,231	01/02/2002	Edith H. Stern	YOR920010483US1	2900
48175	7590	04/25/2006	EXAMINER	
BMT/IBM FIVE ELM STREET NEW CANAAN, CT 06840			NGUYEN, PHUNG	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,231

Applicant(s)

STERN ET AL.

Examiner

Phung T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 53-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 82 and 84 is/are allowed.
- 6) ☒ Claim(s) 1-15, 53-81 and 83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 5, 7-10, 14, 15, 64-68, 73-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuttle (U.S. Pat. 5,831,531) in view of Ireland et al. (U.S. Pat. 7,015,814).

Regarding claim 1: Tuttle discloses an anti-theft method for detecting the unauthorized opening of container and baggage which comprises receiving an indication that the container has been opened (col. 1, lines 49-57). Tuttle does not teach arranging for ownership of the items to be transferred based on the indication. However, Ireland et al. disclose security tag which comprises arranging for ownership of the items to be transferred based on the indication (fig. 5, col. 11, lines 26-59). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teaching of Ireland et al. in the system of Tuttle in order to prevent unauthorized removal of the item which is an advantage.

Regarding claim 2: Tuttle discloses wherein ownership is transferred to at least one of: a person who opened the container, and a party associated with the container (col. 4, lines 40-45).

Regarding claim 5: Tuttle discloses receiving a signal generated by a remote transmitting device (col. 1, lines 54-57).

Regarding claim 7: Tuttle discloses wherein the transmitting device is associated with at least one of: radio transmitter, a photosensitive device, a pressure sensitive device, a conductive

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element attached to an enclosure, a seal having a conductive element, a seal having a non-conductive element, and a flexible printed circuit board device (col. 5, lines 10-17).

Regarding claim 8: Tuttle discloses receiving the signal at a controller via a communication device (col. 4, lines 15-21).

Regarding claim 9: Tuttle discloses the indication including at least one of: a party identifier, an item identifier, an item category, a container identifier, a date, a time, and location information (col. 4, lines 32-38).

Regarding claim 10: Tuttle discloses the indication is received via at least one of: a wireless network, an Internet protocol, a Bluetooth network, and a cellular network (col. 1, lines 54-57).

Regarding claim 14: Tuttle discloses wherein the item comprises at least one of: a consumer item, a consumable item, paper, toner, energy, food, a medical item, medicine, disposable contact lenses, a software program, an entertainment item, text information, audio information, image information, an information storage item, a regular item, and a financial item (col. 5, lines 40-44).

Regarding claim 15: Tuttle discloses wherein the container comprises at least one of: a package, a wrapper, a box, a bag, a bottle, a can, an envelope, a label, a tag, and a tie (figure 6, col. 4, lines 32-34).

Regarding claim 64: Ireland et al. disclose wherein an alert is transmitted to at least one of: a person who opened the container, a party associated with the item, or a third party (col. 7, lines 41-45).

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Regarding claim 65: All the claimed subject matter is already discussed in respect to claim 1 above.

Regarding claim 66: All the claimed subject matter is already discussed in respect to claim 1 above.

Regarding claim 67: Ireland et al. disclose wherein the storage device further stores a container status database (figure 5, col. 2, lines 9-31).

Regarding claim 68: Tuttle discloses a communication device coupled to the processor and adapted to communicate with at least one of: a container, a local device, a controller, and a payment device (col. 4, lines 12-15).

Regarding claim 73: All the claimed subject matter is already discussed in respect to claim 1 above.

Regarding claim 74: All the claimed subject matter is already discussed in respect to claim 1 above. Tuttle also discloses another item to be provided based on the indication (col. 4, lines 18-21).

Regarding claim 75: Refer to claim 2 above.

Regarding claim 76: Tuttle discloses wherein the party has access to a plurality of containers and the arranging is performed after a pre-determined plurality of indications are received from the plurality of container (col. 4, lines 18-25).

3. Claims 3, 4, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuttle in view of Ireland et al. and further in view of Blomqvist et al. (U.S. Pat. 5,859,415).

Regarding claim 3: Tuttle does not teach arranging for a party to provide payment in exchange for the item based on the indication as claimed. However, Blomqvist et al. teach arranging for a party to provide payment through wireless transmission of radiowaves in exchange for the item based on the indication (col. 2, lines 45-53, and col. 6, lines 15-22). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teaching of Blomqvist et al. in the system of Tuttle because it would be more convenient to make a payment through wireless transmission of radiowaves.

Regarding claim 4: Blomqvist et al. teach wherein the payment is associated with at least one of: a purchase, a license, a loan, and a rental (col. 3, lines 22-25).

Regarding claim 11: Tuttle and Ireland et al. do not providing the container to a party without receiving payment in exchange for the item. Blomqvist et al. teach the use of debit card (col. 4, lines 22-23). In view of the teachings by Tuttle and Blomqvist et al., it would be obvious to the skilled artisan to utilize the debit card such as taught by Blomqvist et al. in the system of the combination in order to extend the use of the device.

Regarding claim 12: Blomqvist et al. teach arranging for the party to provide security deposit information (col. 3, lines 61-67).

Regarding claim 13: Blomqvist et al. teach wherein the security deposit information comprises at least one of: a credit card number, a debit card number, a bank account number, digital payment protocol information, and an address (col. 4, lines 1-4).

4. Claims 6, and 69-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuttle in view of Ireland et al. and further in view of Romano et al. (U.S. Pat. 6,507,275).

Regarding claim 6: Tuttle and Ireland et al. do not teach wherein the transmitting device does not transmit a signal when the container is subsequently re-opened. However, Romano et al. teach pill dispensing reminder system for indicating when to take a specific pill which comprises the transmitting device does not transmit a signal when the container is subsequently re-opened (col. 4, lines 18-37). Therefore, it would have been obvious to the skilled artisan to utilize the teaching of Romano et al. in the system of Tuttle and Ireland et al. so that once the container is re-opened, the transmitting device does not need to transmit a signal again which is an advantage by saving power.

Regarding claim 69: Refer to claim 6 above.

Regarding claim 70: Romano et al. teach the enclosure comprising at least one of: a package, a wrapper, a box, a bag, a bottle, a can, an envelope, a label, a tag, and a tie (col. 3, lines 27-30).

Regarding claim 71: Tuttle discloses wherein the transmitting device is associated with at least one of: radio transmitter, a photosensitive device, a pressure sensitive device, a conductive element attached to an enclosure, a seal having a conductive element, a seal having a non-conductive element, and a flexible printed circuit board device (col. 5, lines 10-17).

Regarding claim 72: Tuttle discloses the transmitting device does not transmit the signal if a predetermined number of other containers are present (col. 1, lines 54-57). It is seen that the transmitting device transmits the signal only if continuity is disable.

5. Claims 53-61, 77-81, and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuttle in view of Ireland et al. and further in view of Reber et al. (U.S. Pat. 5,798,694).

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Regarding claim 53: Tuttle and Ireland et al. do not teach determining item quality information based on the indication. However, Reber et al. disclose transmitting an indication of the item quality information (col. 3, lines 24-29). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Tuttle, Ireland et al. and Reber et al. in order to keep track with the status of the container.

Regarding claim 54: Reber et al. teach wherein the determining is based on the date the indication was received (col. 5, lines 40-49).

Regarding claim 55: Reber et al. teach wherein the determining is further based on a date associated with at least one of: creation of the item, packaging of the item, sale of the item, and delivery of the item (col. 4, lines 14-19).

Regarding claim 56: Reber et al. disclose transmitting an indication of the item quality information (col. 3, lines 24-29).

Regarding claim 57: Reber et al. teach wherein the indication of the item quality information is transmitted to the owner of the container, which is met by providing a visual indication of a condition of the item (col. 4, lines 5-8).

Regarding claim 58: Reber et al. teach the indication is transmitted at least one of: periodically, a single time, and when the item quality information is less than a pre-determined minimum item quality (col. 4, lines 42-54).

Regarding claim 59: Reber et al. disclose determining item warranty information based on the indication (col. 5, lines 33-38).

Regarding claim 60: Reber et al. teach an effective date based on the date the container was opened by a consumer (col. 5, lines 40-49).

Regarding claim 61: Reber et al. inherently disclose wherein the warranty information is associated with a return policy (col. 5, lines 33-38).

Regarding claim 77: Tuttle and Ireland et al. do not disclose determining a rate of usage based on the indication. However, determining a rate of usage based on the indication is old and known in the art as taught by Reber et al. (col. 5, lines 19-27). Therefore, it would be obvious to the skilled artisan to use the technique of Reber et al. in the system of Tuttle and Ireland et al. in order to monitor the item.

Regarding claim 78: Reber et al. teach wherein the rate of usage is associated with at least one of: a party associated with the container, an owner of the container, a person who opened the container, and a destination associated with the container (col. 2, lines 14-18).

Regarding claim 79: Reber et al. disclose reporting the rate of usage to a party associated with the container (col. 5, lines 19-27).

Regarding claim 80: Reber et al. disclose wherein the reporting is performed at least one of: periodically, single time, when the rate of usage is less than a minimum predetermined threshold amount, and when the rate of usage is more than a predetermined maximum threshold amount (col. 5, lines 28-58).

Regarding claim 81: Reber et al. teach wherein the indication comprises at least one of: an indication of a number of container that have been opened, and an indication of a number of container remaining (col. 5, lines 19-27).

Regarding claim 83: Ireland et al. inherently disclose transmitting an alert if the container was not opened in accordance with the item requirement (col. 7, lines 10-45).

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6. Claims 62 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuttle in view of Ireland et al. and further in view of Tsou et al. (U.S. Pat. 6,578,199).

Regarding claim 62: Tuttle discloses an anti-theft method for detecting the unauthorized opening of container and baggage which comprises receiving an indication that the container has been opened (col. 1, lines 49-57) but Tuttle and Ireland et al. do not disclose recording the indication as an acceptance of an agreement associated with the item. However, recording the indication as an acceptance of an agreement associated with the item is old and known in the art as taught by Tsou et al. (col. 9, lines 24-38). Therefore, it would have been obvious to the skilled artisan to employ the teaching of Tsou et al. in the system of Tuttle and Ireland et al. for monitoring the item.

Regarding claim 63: Tsou et al. disclose the item is associated with a software program and the agreement comprising a license to use the software program (col. 3, lines 16-31).

Allowable Subject Matter

7. Claims 82 and 84 are allowed.

Conclusion

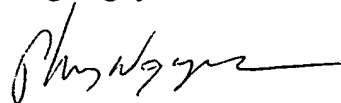
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung Nguyen whose telephone number is 571-272-2968. The examiner can normally be reached on Monday to Friday from 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu, can be reached on 571-272-2964. The fax phone number for this Group is 571-273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 571-272-2600.

Phung Nguyen

A handwritten signature in black ink, appearing to read 'Phung Nguyen', with a long horizontal stroke extending to the right.

Date: April 20, 2006